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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|-----------------------------|------------------|
| 09/128,244 | 08/03/1998 | LAWRENCE J. ELLISON | Alcarel-6 (NCBE-233/038) | 2416 |
| 7590 12/21/2004 | | | EXAMINER | |
| Derek J. Westberg Law Offices of Derek J. Westberg Two North Second Street, Suite 1390 San Jose, CA 95113 | | | DINH, DUNG C | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2152 | |

DATE MAILED: 12/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/128,244

Applicant(s)

ELLISON ET AL.

Examiner

Dung Dinh

Art Unit

2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 80-159 is/are pending in the application.
- 4a) Of the above claim(s) 92-110 and 132-150 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 80-91, 111-131, 151-159 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 8/6/2004 have been fully considered but they are not persuasive.

Applicant argued that Ludwig does not teach the claimed tag data. Applicant argued that tag data is control information that is used to implement non-sequential playback of digital video data including indication of a start position of of a video frame data. The argument is not persuasive because 'tag data' is a generic term that has broader meaning. Ludwig teaches storing 'timing and structure' data separately from the media data itself [see fig.30]. The timing and structure enable a user to create a multimedia document that can provide synchronization of various media including audio/video [col.29 lines 15-25]. Ludwig discloses that video is not embeded within the document but is maintained on the video server and retrieved dynamically when playback is requested. Since a user can select a portion of a video to include in the multimedia document, it is inherent that there is some kind of tag data to indicate the start and end position of the video to be included.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 80-83, 87-91, 120-123, 127-131 are rejected under 35 U.S.C. 102(e) as being anticipated by Ludwig et al. US patent 5,978,835.

As per claim 80, Ludwig teaches a method for manipulating digital video data comprising:

accessing digital audio-visual data (Multimedia documents), representing an audio-visual work and including data for a plurality of video frames (see col.28 lines 54-59, col.29 lines 19-22);

determining a start position for a frame data representing each of the frames (inherent from col.29 lines 19-22 that frame numbers and time codes of the video must be determine for synchronizations with the events. Frame number and timecode indicates the start of a frame);

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generating tag data including data representing the start position and other frame related data for each of the plurality of frames (apparent from fig.30 "structure and timing", col. 28 lines 15-30, col.29 line 54 to col.30 line 27, that the data necessary for synchronizing the events to the audio/video are created and store in the 'structure and timing').

storing the tag data separate from the digital audio-visual data (fig.30 - the "structure and timing" is store separate from the video/audio data, see also col.28 lines 19-30).

As per claims 81 and 83, it is inherent that Ludwig would have included time value for beginning and end of each frame (see col. 28 lines 15-30 and col.29 lines 54-57 in order to indicate the portion of video/audio used in the multimedia document).

As per claims 82, Ludwig has non-video data in the multimedia document (col.29 lines 10-25). Hence, it is apparent the 'timing and structure' would have tag data relating to these non-video data.

As per claim 87, it is apparent that tag data is generated as the audio-visual work is displayed (i.e. as the multimedia document is being created or edited).

As per claim 88, Ludwig teaches saving the tag as separate file (fig.30 "structure and timing").

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As per claim 89, Ludwig teaches the digital audio-visual data is stored in multiple storages (fig.30).

As per claims 90-91, Ludwig teaches the data is stored remote from where it is displayed over a network (fig.31A).

As per claims 120-123, they are rejected under similar rationale as for claims 88-83 above.

As per claims 127-131, they are rejected under similar rationale as for claims 87-91 above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 84-86 and 124-126 are rejected under 35

U.S.C. 103(a) as being unpatentable over Ludwig et al. US patent 5,978,835.

As per claims 84-86 and 124-126, Ludwig does not teach MPEG data. It would have been obvious for one of ordinary skill in the art at the time of the invention to use MPEG because it is

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an efficient encoding for video data. It is well known in the art that MPEG has different types of frames.

Claims 111-119 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ludwig et al. US patent 5,978,835 and further in view of Ramasubramanian et al. US patent 6,172,672.

As per claims 111-114, Ludwig does not teach a method for streaming the audio-visual work. Ramasubramanian discloses a system for sending improved quality of streaming video data to a client, comprising the steps of: sending a video stream to said client in accordance with a set of streaming constraints, said video stream comprising at least a subset of video information from a first source (fig.1B, element 134); receiving a signal indicating a relaxation of said streaming constraints (col.6 line 25 - col.7 line 12); in response to said signal, accessing a set of improved quality video from a second source (fig.1B, element 140), said improved quality video information comprising an improved quality version of at least a subset of the video information in said video stream, wherein said improved quality video information includes a plurality of still images (a video stream is composed of frames, each frame being a single still image, also see col.8 lines 29-34 - the process described can be repeated to provide multiple copies of an image in the JPEG,

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PCX, BMP, TIFF, etc. formats); and sending said set of improved quality video information to said client (col.6 line 25 - col.7 line 12). It would have been obvious for one of ordinary skill in the art to combine the teaching of Ramasubramanian with Ludwig because it would have enable Ludwig to efficiently send the audio-visual work to remote user over a wide area network.

As per claim 115, it would have been obvious for one of ordinary skill in the art to preprocess the information to be stream because it would have reduced latency in providing the streaming data.

As per claims 116-118, Ramasubramanian teaches providing a signal indicating slower presentation rate and streaming to the client at an appropriate streaming rate (col.6 line 25 to col.7 line 12).

As per claim 119, Ramasubramanian teaches the signal including pause ("snapshot").

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this

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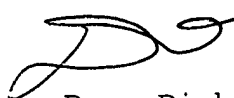
action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung Dinh whose telephone number is (571) 272-3943. The examiner can normally be reached on Monday-Thursday from 7:00 AM - 4:30 PM. The examiner can also be reached on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached at (571) 272-3949.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dung Dinh
Primary Examiner
December 8, 2004